

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

NUMBER: **28878N** DATE: August 15, 2005
RESPONSE REQUIRED BY: **September 15, 2005**

PERMIT MANAGER: Mark D'Avignon PHONE: 415-977-8507 Email: Mark.R.D'Avignon@usace.army.mil

1. INTRODUCTION: Mr. Mike Rice, Miller-Sorg Group, Inc., 710 Kellogg Street, Suisun, California 94585 ((707) 427-6790), through his agent Mr. Geoff Monk, Monk & Associates, Inc., 1136 Saranap Avenue, Suite Q, Walnut Creek, California 94595 ((925) 947-4867), has applied for a U.S. Army Corps of Engineers (Corps) permit to place a total of 300 cubic yards of fill into 3,666 linear feet (0.18-acre) of ephemeral tributaries and 0.002-acre of wetlands, as necessary to construct the proposed 100-unit modular home development project known as Villa Berryessa, near Lake Berryessa, Napa County, California. In addition, the proposed project will require the installation of a snorkel intake structure on the bank of Lake Berryessa. The snorkel intake structure is the proposed water source for the development. The anticipated area of impact below the mean lake level would be less than 0.01 acre. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344).

2. PROPOSED PROJECT:

Project Site: The proposed project site is located less than one mile northwest of Lake Berryessa near the Berryessa-Knoxville Road in Napa County. Pope Canyon Road forms the southern boundary of the project site, and undeveloped open space borders the parcel to the north, west, and east (Figures 1 and 2). The site APN Number is: 019-080-003.

The proposed project site ranges in elevation from 525 feet to 1,000 feet at its highest point. The terrain varies from gently to steeply-sloping areas, with slopes in excess of 30% throughout two-thirds of the site. The site is traversed by several mostly ephemeral, but in some instances intermittent drainages. The majority of these drainages flow downslope and join a primary drainage that exits the property in the southeast corner of the site. This primary drainage is an unnamed tributary of Lake Berryessa.

The majority of the project site is dominated by blue oak (*Quercus douglasii*) woodland with an open understory of scattered shrubs, grasses, and forbs. Steeper portions of the site support chaparral that is dominated by chamise (*Adenostoma fasciculatum*), and mixed woodland occurs where blue oak intergrades with foothill pine (*Pinus sabiniana*). Vegetation is sparse in some locations due to exposed bedrock and shallow surface soils. In these areas plants such as thread plant (*Nemacladus ramosissimus*) and wild buckwheat (*Eriogonum luteolum luteolum*) grow directly out of the barren, talus slopes.

Native tree species include blue oak, foothill pine, interior live oak (*Quercus wislizenii*), California buckeye (*Aesculus californica*), and western redbud (*Cercis occidentalis*). Native shrub species include manzanita (*Arctostaphylos* spp.), California lilac (*Ceanothus cuneatus*), chamise, toyon (*Heteromeles arbutifolia*), and hollyleaf redberry (*Rhamnus*

ilicifolia). Sub-shrubs and vines include sticky monkeyflower (*Mimulus aurantiacus*), California tea (*Rupertia physodes*), and pipestems (*Clematis lasiantha*). Native herbaceous species include fringed checker mallow (*Sidalcea diploscypha*), narrow-leaf milkweed (*Asclepias fascicularis*), mule ears (*Wyethia glabra*), shooting stars (*Dodecatheon* sp.) downy navarretia (*Navarretia pubescens*), blue-eyed grass (*Sisyrinchium bellum*), yellow mariposa-lily (*Calochortus luteus*), soap plant (*Chlorogalum pomeridianum*), twining brodiaea (*Dichelostemma volubile*), purple needlegrass (*Nasella pulchra*), and blue wildrye (*Elymus glaucus*). Chaparral associations occur primarily on the north-facing slopes and higher elevations of the project site.

In the summer months, a number of non-native grasses become dominate in the grassland habitats. Dominant grasses include medusa-head (*Taeniathrum caput-medusae*), rip-gut grass (*Bromus diandrus*), false brome (*Brachypodium distachyon*), red brome (*Bromus madritensis rubens*). Subdominants include Italian rye grass (*Lolium multiflorum*). These grasses cover the slopes underneath the oak/pine canopy where they are mixed with the native grasses, wildflowers, and forbs mentioned above. Rock outcroppings are also scattered throughout the project site. These outcrops support an assemblage of different plant species such as California maidenhair fern (*Adiantum jordanii*), phacelia (*Phacelia ramosissima*), and goldback fern (*Pentagramma triangularis*).

Project Description: The proposed project is a residential development that includes the construction of modular homes, a clubhouse, recreation center, RV/Boat storage facility, helicopter pad, fire station, and a private water system that includes a water treatment plant, a sewage disposal system including sewage evaporation ponds, and a storm drain system including nine biofiltration/detention ponds. A snorkel intake system is proposed to draw water

from Lake Berryessa. A piping system will be installed to pull water directly from the lake and transfer the water into storage tanks for treatment and domestic water use. Figure 3 illustrates the proposed Villa Berryessa development.

Preserved Wetlands and Other Waters: Most of the Corps jurisdictional wetlands (seeps) mapped on the project site, which total 0.08-acre, will be preserved by the project (Figure 4). These wetlands consist of two hillside seeps that are dominated by swamp sedge (*Carex senta*). Other wetland vegetation in these seeps includes seep monkeyflower (*Mimulus guttatus*), scarlet monkeyflower (*Mimulus cardinalis*), iris-leaved rush (*Juncus xiphioides*) and swamp sedge. One of the seeps is intermittent, while the other perennial. The overstory at the perennial seep is dominated by red willow (*Salix laevigata*). In addition, there are several jurisdictional "other waters" within the project area that will not be impacted by the project and will be preserved at the site. These preserved drainages are also shown in Figure 4.

Project Impacts: The proposed project would permanently impact 3,666 linear feet (0.18-acre) of ephemeral tributaries mapped by the Corps as "other waters" and 0.002-acre of wetlands. Figure 4 shows the impacts to jurisdictional waters within the project envelope from the proposed development project.

In addition to project site impacts, installation of the project water supply intake snorkel system in Lake Berryessa will result in additional impacts to waters of the U.S. The snorkel intake would provide water to the developed site. Figure 5 indicates the location of the proposed snorkel intake structure. Figure 6 is an exhibit of the proposed snorkel intake structure. To construct the snorkel, a sled structure that will support the snorkel intake device will be constructed below the low water elevation of the lake. The anticipated area of impact would be 400

square feet (0.009-acre). This area of impact would be within Corps jurisdiction pursuant to Sections 404 of the Clean Water Act.

Proposed Mitigation: To compensate for impacts to 0.18-acre of “other waters” and 0.002-acre of wetlands that will occur during the construction of the proposed project, the applicant is proposing to realign and reconfigure 1,495 linear feet of the primary creek channel (0.32-acre of in-kind mitigation) and will construct two seasonal ponds that will total 0.30-acre. In total, the applicant will construct 0.62-acre of other waters and wetlands as mitigation compensation for impacts to 0.182-acre of “other waters” and wetlands. This represents a 3.4 to 1 mitigation compensation ratio (i.e., 3.4 square feet of new other waters and/or wetland would be created for each 1 square foot that is impacted).

Part of the proposed project includes relocating and restoring a reach of the primary drainage on the project site. The existing, highly eroded and narrow alignment of this drainage would be filled and a new, improved alignment of the drainage would be constructed approximately parallel with, and north of, the existing channel (Figure 3). The reconfigured channel would be created to emulate the functions and values of the impacted alignment, which has been mapped by the Corps as “other waters” (i.e., it does not currently support instream or adjacent wetlands). The existing widths of the drainages that would be impacted vary between 1 foot and 3 feet between ordinary high water marks. The realigned/recreated “mitigation” channel will average 8 feet wide between ordinary high water marks and will include the construction of three instream wetland basins that will function as energy dissipaters. While the instream wetland basins will initially function as pools, they will likely silt up but will continue to retain soil moisture over a long enough period each year to promote development of

wetland vegetation. A 25-foot buffer will be established along the recreated channel.

In addition, at the southeastern corner of the project site downstream of the proposed realigned section of the channel, two mitigation compensation ponds will also be created within the existing alignment of this channel. These ponds are expected to support both open water and shoreline wetland habitats. The wetland mitigation ponds will be preserved within a protected buffer area that only supports a maintenance access road (graveled surface) to the pond. The created instream ponds will greatly enhance the functions and values of the ephemeral channel that exists today on the project site.

The applicant will dedicate the open space containing the realigned channel and the mitigation ponds in a perpetual Grant of Easement that usurps all development rights. The Grant of Easement shall designate Napa County and the residents of the development as the grantees of the open space easement. The open space shall include a creek corridor measuring 50 feet from top of banks and an area around the wetland ponds and as indicated on Figure 7. Allowable uses within this open space shall be limited to maintenance of water quality structures, the creek, mitigation ponds, any necessary retaining walls, and the access road to the mitigation ponds. No further development, establishment of utilities, or any construction of any kind will be allowed within dedicated open space. The Grant of Easement shall be dedicated commensurate with grading the project site.

3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the

Council on Environmental Quality's Regulations (40 C.F.R. Parts 1500-1508), and the Corps' Regulations (33 C.F.R. Part 230 and Part 325, Appendix B). Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation of the Environmental Assessment will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197.

Endangered Species Act of 1973 (ESA): Section 7 of the Endangered Species Act requires formal consultation with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS) if a Corps permitted project may adversely affect any Federally listed threatened or endangered species or its designated critical habitat. The project site is not known to support any federally listed threatened and endangered species, therefore consultation under Section 7 of the Endangered Species Act would not be required for the proposed project.

Clean Water Act of 1972 (CWA):

a. Water Quality: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State water quality certification before a Corps permit may be issued. The applicant has provided the Corps with evidence that he has submitted a valid request for State water quality certification to the San Francisco Bay Regional Water Quality Control Board. No Corps permit will be granted until the applicant obtains the required water quality certification. The Corps may assume a waiver of water quality certification if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable

for the State to act. Those parties concerned with any water quality issue that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, Central Valley Region, 11020 Sun Center Drive, Suite 200, Rancho Cordova, California 95670 by the close of the comment period of this Public Notice.

b. Alternatives: Evaluation of this proposed activity's impact includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section 1344(b)). The applicant has submitted an Analysis of Alternatives for the project and it will be reviewed for compliance with the guidelines. An evaluation has been made by this office under the guidelines and it was determined that the majority of the proposed project is not water dependent. The snorkel-intake structure is a water dependent feature, while the remainder of the proposed project is not water or wetland dependent. The applicant has revised the proposed project to reduce and minimize impacts to jurisdictional waters and wetlands. According to the applicant, due to the steep hillsides and limited areas that can be developed, impacts to waters and wetlands within the proposed project area are unavoidable. The applicant states there is no other less environmentally damaging practicable alternative for this project.

National Historic Preservation Act of 1966 (NHPA): Two prehistoric archaeological sites (CA-NAP-524 and CA-NAP-728) have been recorded on the project site and were inspected by Tom Origer and Associates during archeological surveys. The two recorded archaeological sites within the proposed project area were visited and recommendations for their treatment have been included in the archeological report prepared by Tom Origer and Associates dated July 26, 2005 and would be incorporated into the Corps authorization, if one is issued. The proposed project has been designed to

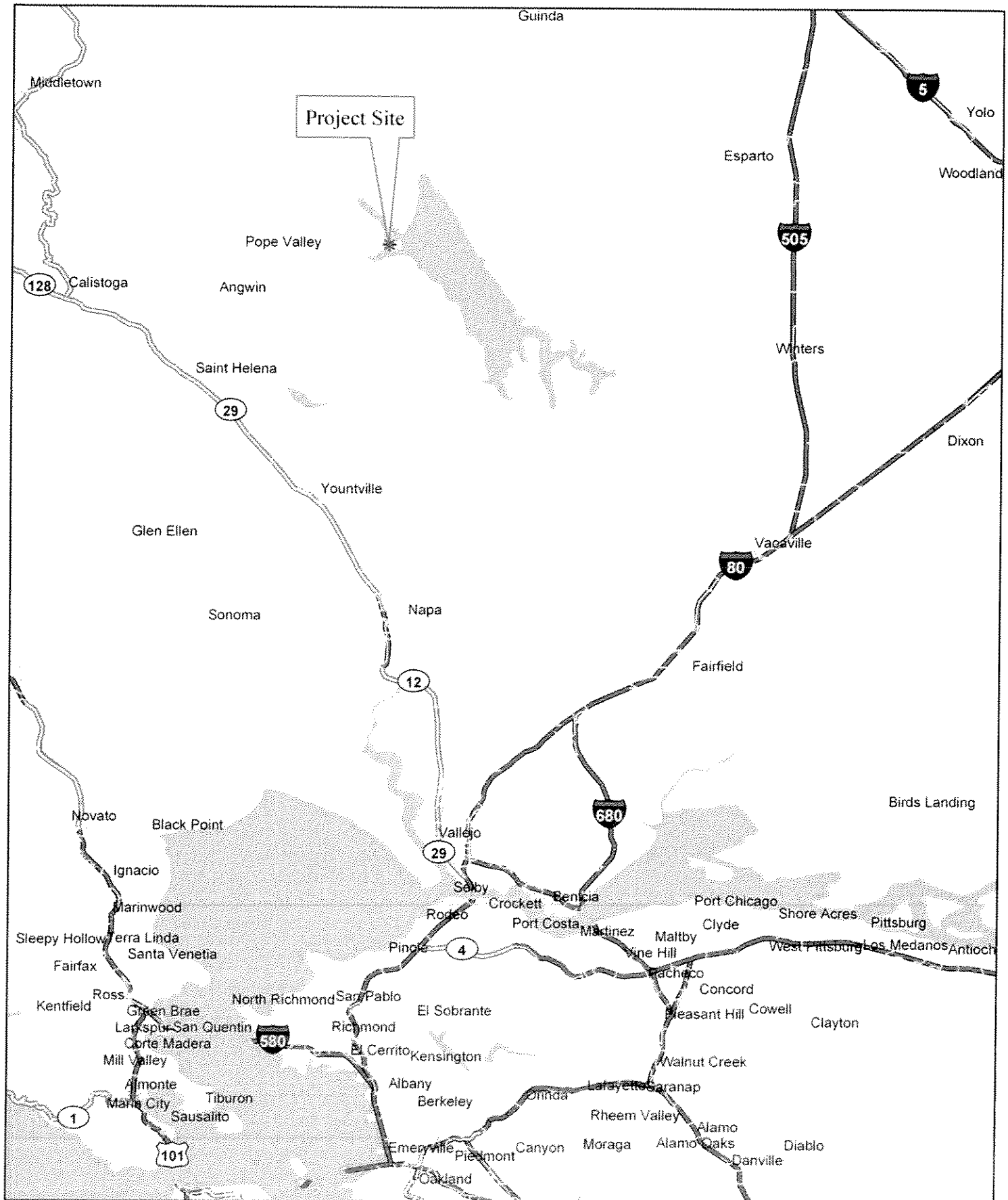
avoid the cultural resources on the property, and additional precautions have been proposed to reduce any potential adverse effects of the proposed project on known cultural resources. Therefore, there should be no adverse effects to cultural resources on the proposed project site. If unrecorded resources are discovered during construction of the project, operations will be suspended until the Corps completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

4. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

5. CONSIDERATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, condition or deny a permit for this proposal. To make this

decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the proposed activity.

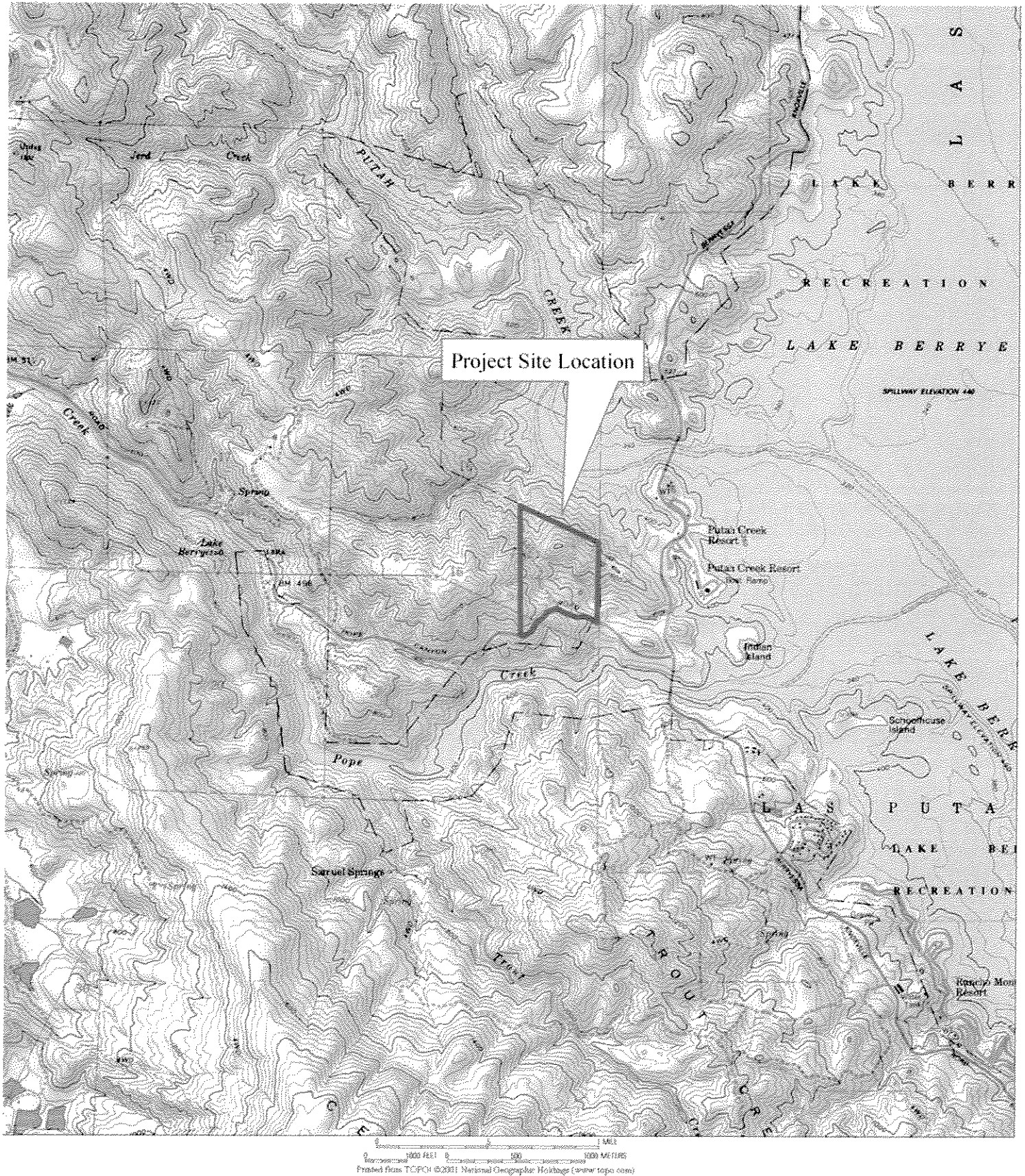
6. SUBMISSION OF COMMENTS: Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197. It is the Corps' policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Public Notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose name and address are indicated in the first paragraph of this Public Notice or by contacting Mark D'Avignon of our office at telephone 415-977-8507, or (Mark.R.D'Avignon@usace.army.mil). Details on any changes of a minor nature that are made in the final permit action will be provided upon request.



Monk & Associates
Environmental Consultants
1136 Saranap Avenue, Suite Q
Walnut Creek, California 94595
(925) 947-4867

Figure 1. Villa Berryessa Project Site Regional Map
Napa County, California

County: Napa
Map Preparation Date: May 13, 2004



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Figure 2. Location Map
Villa Berryessa
Napa County, California

Source: California Natural Diversity Data Base, 2003
7.5-Minute Walter Springs & Chiles Valley Quadrangles
Map Preparation Date: May 6, 2004

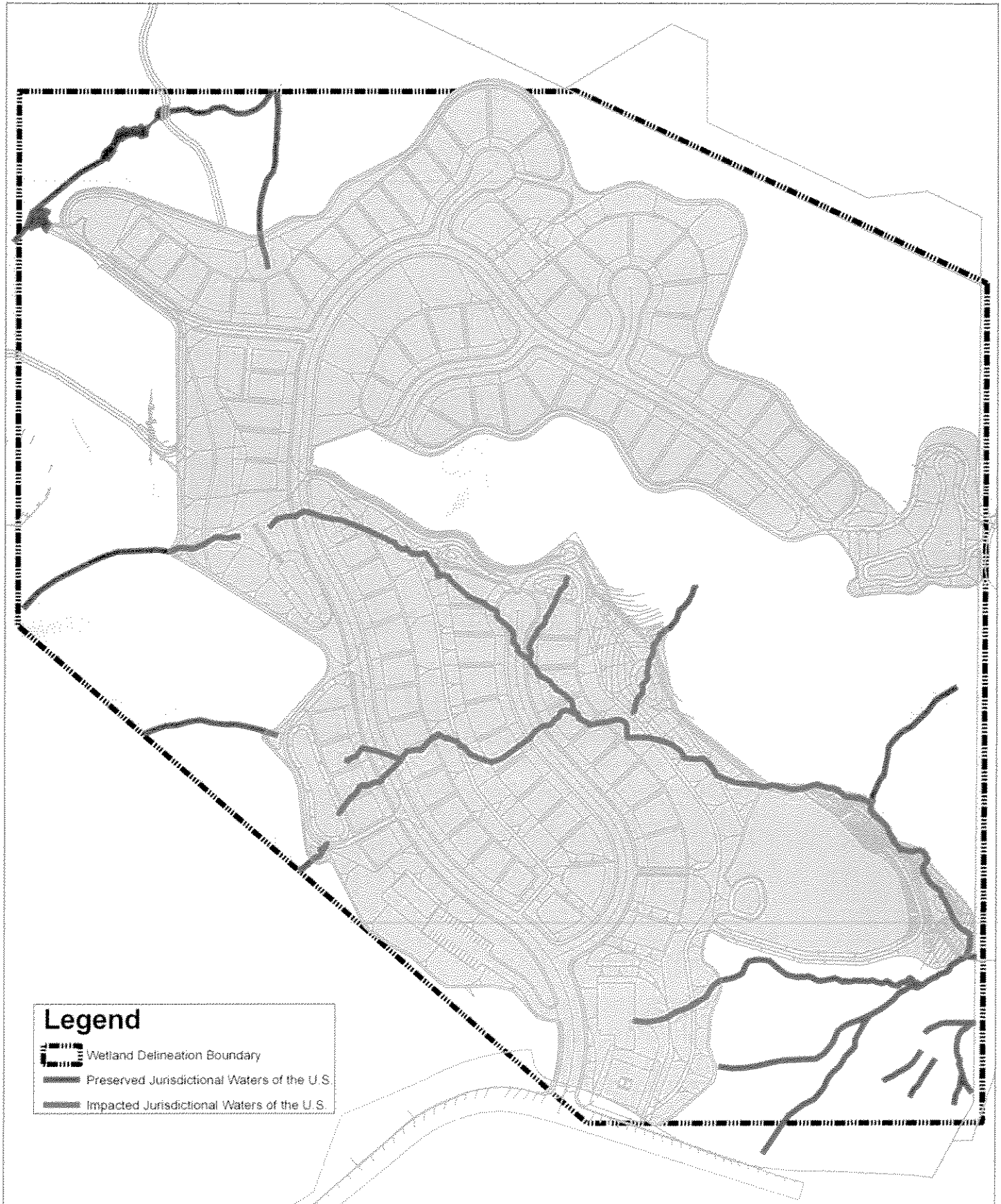
VILLA BERRYESSA
PREFERRED LAYOUT
NAPA COUNTY CALIFORNIA



1541 Third Street
Napa, California 94559
v 707.252.3301
f 707.252.4966

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Figure 3. Villa Berryessa Project Development Plan
Napa County, California



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0 65 130 260 390 520 Feet

Map Preparation Date March 1, 2005

Figure 4. Preserved and Impacted Jurisdictional Waters of the U.S.
Villa Berryessa Project Site, Napa County, California.



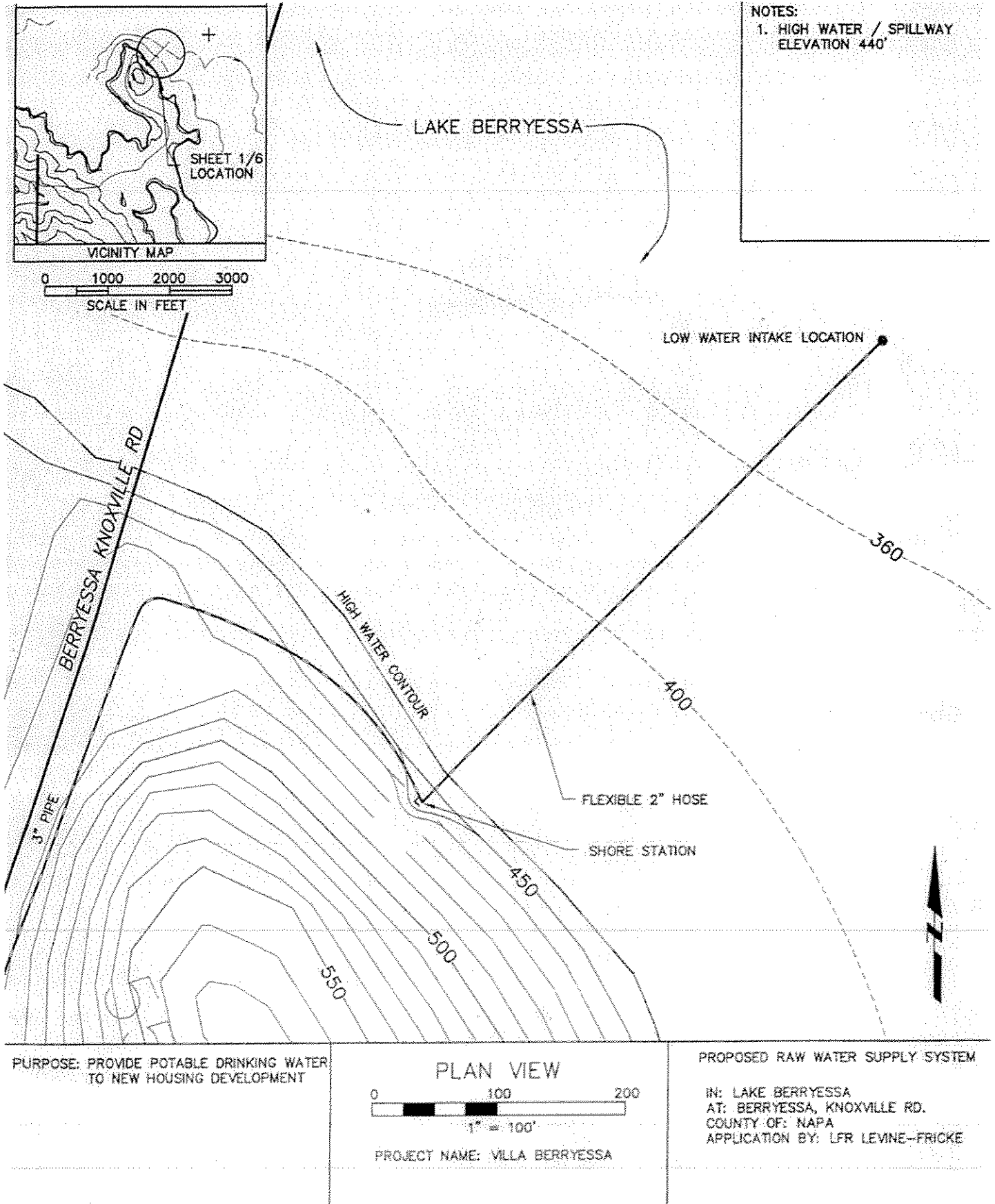
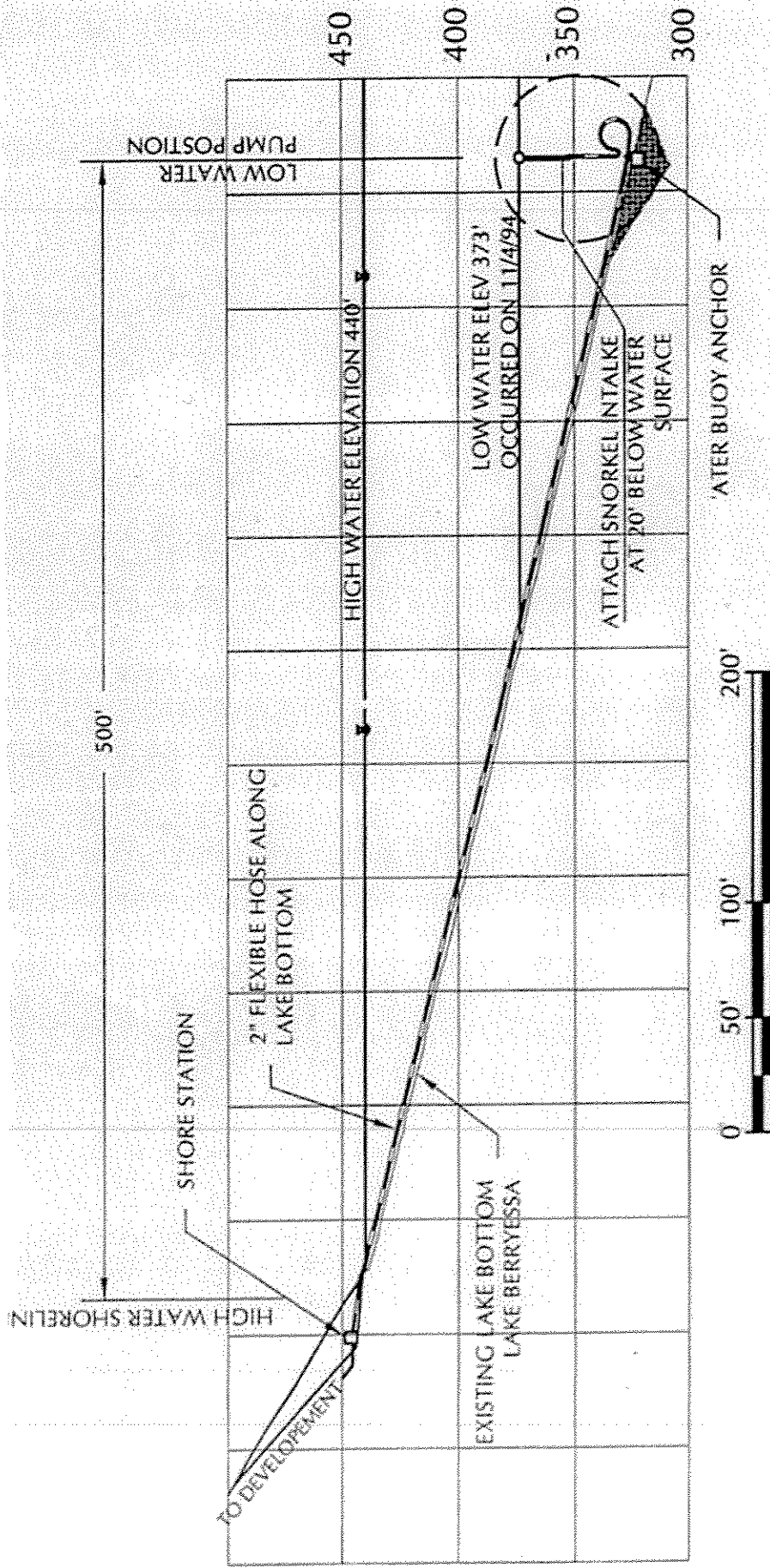


Figure 5. Location of Proposed Snorkel Intake at Lake Berryessa.



		PROFILE DRAWING			
		HIGH WATER AND LOW WATER INTAKE CONDITION LAKE BERRYESSA			
PROJECT NO.	09256	DATE	2/9/05	SCALE	AS SHOWN
SHEET NO. 1 OF 1		DRAWN BY: DCB CHECKED BY:			

Figure 6. Proposed Snorkel Intake Structure
at Lake Berryessa.

VILLA BERRYESSA PRESERVED MITIGATION AREA NAPA COUNTY CALIFORNIA

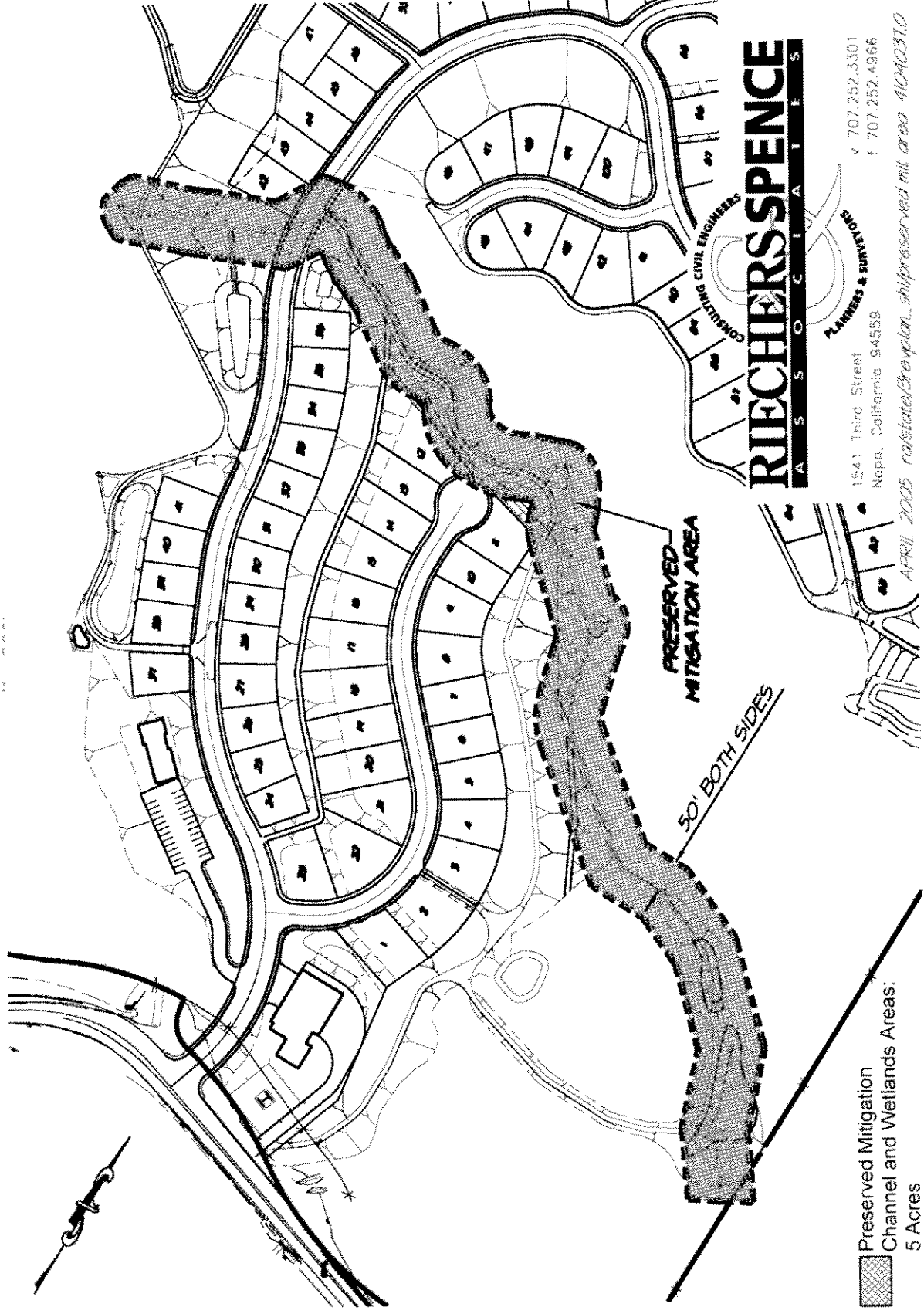


Figure 7. Villa Berryessa Project Preserved Mitigation Area
Napa County, California

DEPARTMENT OF THE ARMY
San Francisco District, Corps of Engineers
333 Market Street, CESP-N-CO-R
San Francisco, California 94105-2197

1ST CLASS MAIL